

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

MAR 28 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Implementation of the Subscriber Carrier )  
Selection Changes Provisions of the )  
Telecommunications Act of 1996 )  
 )  
PowerNet Global Communications )  
Petition for Expedited Waiver )

CC Docket No. 94-129 /

**PETITION FOR EXPEDITED WAIVER  
OF COMMISSION'S RULES**

PowerNet Global Communications ("PNG") respectfully requests a limited waiver of the authorization and verification requirements of the Commission's rules, 47 C.F.R. §§ 64.1100 through 64.1190 (1999), and relevant Orders to the extent necessary to permit PNG to transfer certain customers of U.S. TeleStar Communications Group, Inc. ("UST") and LDC Consultants, Inc. ("LDC") to PNG's customer base without first obtaining each subscriber's authorization and verification.<sup>1</sup> As demonstrated herein, PNG fully satisfies the special circumstances required for a waiver of the Commission's rules as stated in *Wait Radio v. FCC* and grant of the instant Petition will serve the public interest.<sup>2</sup> PNG requests expedited treatment of this waiver so that PNG may close its transactions with UST and LDC by June 16, 2001.

1. Background

PNG currently provides resold intrastate, interstate and international telecommunications

---

<sup>1</sup>The FCC's verification rules prohibit a telecommunications carrier from submitting a preferred carrier change order unless the carrier has obtained either: (1) the subscriber's written letter of agency; (2) the subscriber's electronic verification via a toll-free telephone number used exclusively to verify subscriber carrier changes; or (3) the subscriber's oral authorization to submit the preferred carrier change order from an appropriately qualified independent third party that confirms and includes appropriate verification data—e.g., the subscriber's date of birth or social security number. 47 C.F.R. §64.1100 (1999).

<sup>2</sup>*WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

No. of Copies rec'd 013  
List A & C U E

services.<sup>3</sup> PNG is an Ohio corporation that is authorized to provide interstate and intrastate long distance service in 48 states. UST is a California corporation and provides resold interstate, intrastate and international long distance services in California.<sup>4</sup> LDC is a California corporation that provides resold interstate and intrastate long distance service in 35 states.

This petition arises out of two separate transactions between PNG and LDC and PNG and UST respectively. LDC and UST are wholesale customers of PNG, that is, PNG is the underlying carrier providing service to the customers of LDC and UST. PNG has executed agreements with both LDC and UST for the purchase of their assets including their respective customer bases. Since service to all of these customers has been provided through PNG's network already, the underlying facilities-based carriers for these customers will not change. Transfer of these customers to PNG will allow PNG to offer them the same quality of service at lower rates.

In accordance with the Commission's prior Orders in this docket, PNG proposes to send the attached notice letters to the affected LDC and UST customers. The letter attached as Exhibit A is intended to notify the affected customers of the transfer prior to customer migration (the "Notice Letter"). This letter will be amended as required by the Commission and sent to the affected customers only after PNG's petition has been granted. The Notice Letter will inform the affected customers (1) that their long distance service will be switched to PNG; (2) that customers will be assessed no charge in connection with the transfer to PNG<sup>5</sup>; (3) that PNG will

---

<sup>3</sup>PNG Telecommunications, Inc. d/b/a PowerNet Global Communications holds Section 214 "global" resale authority pursuant to Section 214 of the Communications Act of 1934, as amended, File No. ITC 96-557 (eff. Dec. 5, 1996).

<sup>4</sup>U.S. TeleStar Communications Group, Inc. holds Section 214 "global" resale authority pursuant to Section 214 of the Communications Act of 1934, as amended, File No. ITC 214-19990422-00249 (eff. June 4, 1999).

<sup>5</sup> Indeed, no PIC change fee should appear on the customer's bill since the customers' service has already been provisioned on PNG's network.

offer rates comparable to or lower than the rates offered them by LDC and UST respectively; and (4) that customers are free to change carriers if they are not satisfied with the service provided by PNG. The letter will also provide the affected customers with a toll-free number to call with any questions concerning the transaction.

After the customers have been transferred to PNG's network, PNG will send the letter attached as Exhibit B (the "Post-Migration Letter"). The Post-Migration Letter will notify the customers that the transfer has been completed, reiterate the information contained in the Notice Letter, and remind the customers that they are free to choose another long distance carrier if they are not pleased with the service they receive from PNG.

PNG will cooperate with LDC and UST to ensure that the transition of the affected customers to PNG is seamless and to resolve any outstanding customer complaints regarding domestic long distance or international service filed by the affected customers.

## 2. Discussion

The FCC has authority to waive a rule if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest. *WAIT Radio*, at 1159; *Northeast Cellular Telephone Co.*, at 1166. PNG submits that waiver of the Commission's authorization and verification rules is appropriate in this case. A deviation from the rules is necessary to enable PNG to ensure a seamless transition of the affected customers to PNG without inconveniencing the customers or interrupting their service. If PNG were required to obtain verification from each customer, there is a risk that the long distance services of certain customers could be interrupted, or that customers could be charged higher casual calling rates if a carrier selection is not made since LDC and UST will cease to provide telecommunications services.

Moreover, the letters PNG proposes to send to affected customers will ensure that

customers are informed of the process and that their rights are adequately protected. All of the affected customers will receive prior notification of the change in carriers, be informed of their ability to select the interexchange carrier of their choice; to be reimbursed for any PIC change charges imposed by their LECs, and will be given a toll-free number to contact PNG with any questions regarding the transaction. After customers are switched to PNG, they will receive another letter giving them the same information again. By granting the transfer of these customers via the process described in this Petition, the Commission will ensure that the policy goals of the carrier change rules are served in an efficient fashion that will permit PNG to seamlessly transfer the affected customers without any disruption of service. The circumstances involved in the instant Petition are similar to those in which the Commission has previously found sufficient to justify a waiver of the carrier change rules.<sup>6</sup>

If, on the other hand, PNG must acquire a new authorization from each customer, some customers who do not respond to PNG's request for authorization may end up paying higher rates for casual calling or have their service disrupted because both UST and LDC will cease provision of service.

### 3. Conclusion

Whereas, PNG respectfully requests the Commission grant a limited waiver of the authorization and verification requirements of the Commission's rules, 47 C.F.R. §§ 64.1100- through 64.1190 (1999), and the relevant Orders to the extent necessary to permit PNG to transfer customers of LDC and UST to PNG's customer base without first obtaining the customers' authorization and verification. PNG further requests that its petition be expedited so

---

<sup>6</sup>See *In re Implementation of Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996, Conversent Communications, LLC, Petition for Expedited Waiver*, CC Docket No. 94-129 (rel. Dec. 21, 1999); See *In re Implementation of Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996, International Exchange Communications, Inc., Request for Waiver*, CC Docket No. 94-129 (rel. Sep. 10, 1999); See *In re Implementation of Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996, MCI WorldCom, Inc., Request for Waiver*, CC Docket No. 94-129 (rel. Aug. 6, 1999)

that PNG, LDC and UST may close their respective transactions by April 16, 2001.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dennis M. Packer", with a long horizontal flourish extending to the right.

---

Dennis M. Packer  
General Counsel  
PowerNet Global Communications  
4839 Business Center Way  
Cincinnati, Ohio 45246  
Tel: (513)942-7900, ext. 412  
Fax: (513)942-5506  
e-mail: [dpacker@pngcom.com](mailto:dpacker@pngcom.com)

CERTIFICATE OF SERVICE

I, Dennis Packer, do certify that copies of the foregoing Petition for Expedited Waiver were served upon the persons listed below by regular U.S. Mail, postage prepaid on this 23<sup>rd</sup> day of MARCH, 2001.

Magalie Roman Salas  
Secretary, Room TW-A325  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

Mary Beth Richards  
Acting Deputy Chief  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

K. Michele Walters  
Associate Division Chief  
Accounting Policy Division  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

Anita Cheng  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

Glenn Reynolds  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

Deena Shetler  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

Katherine Schroder  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

International Transcription Services  
1231 20<sup>th</sup> Street, N.W.  
Washington, DC 20036



---



EXHIBIT A - PRE-TRANSFER NOTICE  
LETTER

<<Date>>

Dear [LDC/UST] Customer,

PowerNet Global Communications, a national provider of long-distance, data and Internet services has entered into an agreement with [LDC/UST] whereby PowerNet Global will purchase the assets of [LDC/UST]. As part of this transaction, [LDC/UST] and PowerNet Global have agreed to transfer [LDC/UST] customer accounts from [LDC/UST] to PowerNet Global. PNG continue to offer you the same excellent service offered by [LDC/UST] coupled with the low rates offered by PowerNet Global.

PowerNet Global offers customers simple, flat-rate pricing any time of the day or night. So PowerNet Global will be offering you rates comparable to – if not lower – than the rates you are currently getting with [LDC/UST].

[LDC/UST] and PowerNet Global will work together to ensure that your transition to PowerNet Global will be seamless with no interruption of service. Nor will you be required to pay any switchover fees associated with the transfer. If you have any questions or concerns about this change in long distance service, we encourage you to call PowerNet Global's customer service at 1-800-860-9495. Our customer service representatives will be happy to discuss the transition with you and to answer any questions you may have.

We are confident you will be pleased with the superior service you receive from PowerNet Global. We also recognize, however, that you are free to select another carrier if you are not satisfied with the service you receive. We want you to know that we value our relationship with you and pledge to provide you with value-added communications solutions and unrivaled customer support as we move forward.

Sincerely,

Bernie Stevens  
President & CEO  
PowerNet Global Communications

EXHIBIT B - POST MIGRATION NOTICE LETTER



P.O. Box 1858  
West Chester, Ohio 45069

**IMPORTANT NOTICE**

As announced in previous correspondence, PowerNet Global has purchased the assets of [LDC/UST] and, as part of this transaction, [LDC/UST] and PowerNet Global agreed to transfer [LDC/UST] customer accounts from [LDC/UST] to PowerNet Global. This transaction will allow us to offer you a wide variety of products at comparable or lower rates while maintaining the same quality of customer service you have received from [LDC/UST] in the past. No charges or fees will be imposed and no rate increase will occur as a result of this transaction and the transfer of your account to PowerNet Global.

We are confident you will be pleased with the superior service you receive from PowerNet Global. We value our relationship and pledge our commitment to providing you with quality services and personalized customer care. However, if you are not satisfied with the service you receive from PowerNet Global, please understand that you are free to choose another long distance service provider.

Please contact us at 1-800-860-9495 if you have any questions or concerns about your service.

PowerNet Global Communications, Inc.